REMARKS

Claims 1-16 are of record.

In the subject invention, unlike the cited prior art, applicant takes select material and places it on the bottom of the trench to a desired depth to establish a bedding prior to the insertion of the utility being placed. The known prior art attempts to place the select material under the utility as it is being placed, and all require the select material to pass between the utility and the sides of the unit traveling through the trench and flow under the utility to act as the bedding. As discussed in the Background of the Invention, this has very serious drawbacks.

Main claim 1 has been amended to make it clear that the bedding is established before the utility is placed on it.

The Examiner may be confused in comparing the drawings of the invention with the prior art. In the drawing of the invention, the unit is moving from right to left (page 5, last line). Page 7 clearly describes the sequence of operation of the unit - that the bedding is laid down on the bottom of the trench to a predetermined depth by the conveyor carrying the select material from the hopper. Then the utility is laid on the bedding and thereafter the utility on the bedding is encased.

Claims 1 and 6-16 stand rejected as anticipated by Rivard, U.S. 4,812,078.

Considering main claim 1, Rivard does not have "a conveyor that receives select material from said hopper and dispenses the material from an outlet on the bottom of the excavated trench as the unit moves to form a bedding".

The conveyor described in the Rivard patent is part of the "receptacle 40" of that patent. According to Rivard, this is part of a unit ("advantageously mounted on a trailer") containing a fine powdery material (41), and means (42) for feeding the powdery material from receptacle (4) to the guide device (30). This unit of Rivard, if used in conjunction with applicant's invention, would correspond to the "source" in the portion of applicant's claim 1 that calls for "a hopper for receiving select material from a source" and not part of the novel subject matter for which applicant seeks a patent.

The conveyor system of Rivard merely functions to deliver the powdery select material (41) from the hopper. The conveyor system in applicant's invention functions to transport and dispense a portion of the select material received in the hopper, and to deliver the select material to the bottom of the trench ahead of the utility entering the unit, to form the bedding in the trench.

In Rivard, as seen in Fig. 1, the powdery material (41) from the conveyor (46) falls through chute (49) and falls on the angled plate (37) which probably has only a few inches of clearance on each side between the vertical plates (32) and (33). The material (41) fills the space below, around and on top of the cable 4 as the cable is held above the trench bottom by the roller (36). That is, the cable is being encased all around at approximately the same time.

This is considerably different from the subject invention wherein a bedding of predetermined depth is established and the cable is then laid on top of the established bed. Thereafter, the cable is encased with the select material. All of this is set forth in claim 1.

Accordingly, claim 1 defines subject matter which is different from what is disclosed in Rivard and has numerous advantages therein. Therefore, claim 1 is patentable and should be allowed.

Claim 6 depends from claim 1 and further recites the framework that is within the trench and encompasses the conveyor outlet (for the bedding) and the hopper outlet (encasement). The portion of the Rivard unit (30) that is moved through the trench does not consist of a conveyor and therefore does not have a framework encompassing a conveyor outlet.

Therefore, claim 6 and its dependent claims 7 and 8 are also patentable and should be allowed. Claims 9-16 depend directly or ultimately from claim 1. In view of the allowability of claim 1, for the reasons given above, claims 9-16 also are patentable and should be allowed.

Claims 2-5 are rejected over the combination of Rivard in view of Courson, et al., U.S. 4,028,902.

Claim 2 depends from claim 1 and further calls for an adjustable means to set the height of the bedding on which the cable is laid, and claim 3 depends from claim 2 and gives details of the adjustable means. Claim 4 depends from claim 1 and calls for an adjustable means to set the height

of the encasement, while claim 5 depends from claim 4 and recites details of this adjustable means. As explained above, the bedding is laid first and the encasement laid on top of the utility that has been placed on the bedding.

Courson is relied on for a vertically adjustable means. However, the means of Courson is to set the height of the overall encasement. There is no teaching or suggestion of an adjustable means to set the height of the bedding (claims 2 and 3) or the combination of an adjustable means to set the height of the encasement (claims 4 and 5) that has been laid on top of at least one utility previously placed on an established bedding (parent claim 1). Therefore, the novel and advantageous subject matter of claims 2-5 is patentable and these claims also should be allowed.

Claims 17 and 18 are added. These contain the subject matter of claims 4 and 5 and are dependent from claim 2. That is, this is the combination of the height adjusting means for the bedding and the height adjusting means for the encasement. In view of the allowability of claims 2, 4 and 5 for the reasons discussed above, claims 17 and 18 also should be allowable.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Prompt and favorable action is requested.

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Respectfully submitted,

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